

REMARKS

Claims 1-24 are all the claims pending in the application. Claims 25-27 have been added, which are clearly supported throughout the specification.

I. Summary of the Office Action

The Examiner withdrew the previous grounds of rejection. The Examiner, however, found new grounds for rejecting the claims. Specifically, claims 1, 3, 5, 7-9, 12-15, and 21-24 are rejected under 35 U.S.C. § 102 and claims 2, 4, 6, 10, 11, and 16-20 are rejected under 35 U.S.C. § 103(a).

II. Claim Rejection under 35 U.S.C. § 102

Claims 1, 3, 5, 7-9, 12-15, and 21-24 are rejected under 35 U.S.C. § 102(e) as being anticipated by a newly found reference, Beeman et al. (US 2003/0190090), hereinafter referred to as “Beeman”. Applicant respectfully traverses these grounds of rejection at least in view of the following exemplary comments.

The Examiner contends that Beeman suggests each feature of independent claims 1, 3, 5, and 13. These rejections are not supportable for at least the following reasons. These independent claims *inter alia* and in some variation recite that the first image is captured by the portable device and that this portable device creates the synthesized image with an image captured by another portable device.

Beeman discloses an enhancement application that replaces undesirable features of the image with a desirable ones (¶¶ 25-26). In other words, Beeman only discloses a conventional enhancement application. Beeman, however, does not disclose or even remotely suggest that the synthesized image is image synthesized from images captured by different portable devices.

The Examiner alleges that the image *may* be obtained from another image acquisition device (*see* pages 3 and 5 of the Office Action). However, this position amounts to a mere speculation not substantiated by *any* evidence of record. On the contrary, since the enhancement operations are performed to remove undesirable features in the image, the pictures are taken with the same camera as described in ¶ 24 of Beeman. In short, Applicant respectfully submits that to be an “anticipation” rejection under 35 U.S.C. § 102, the reference must teach every element and recitation of the Applicant’s claims. Rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. MPEP § 2131. To the extent that Beeman accepts data from multiple devices, this still does not inherently require a reference image A and image data B to be drawn from different devices.

In summary, the deficiencies of the Beeman reference fall to the Examiner’s burden to show inherent inclusion or obviousness of the claim elements. Therefore, for all the above reasons, independent claims 1, 3, 5, and 13 are patentable. Claims 2, 4, 6-9, 12, 14, 15, and 21-24 are patentable at least by virtue of their dependency.

III. Claim Rejections under 35 U.S.C. § 103

Claims 2, 4, and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Beeman, in view of Kusunoki (US 2002/0048413), hereinafter referred to as “Kusunoki”. Claims 10 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Beeman, in view of Watanabe (US 2006/0125927), hereinafter referred to as “Watanabe”. Claim 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Beeman, in view of Watanabe (US 2003/0140104), hereinafter referred to as “Watanabe2”. Claims 17 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Beeman and Watanabe2, in view of Tanaka (US 6,519,048), hereinafter referred to as “Tanaka”. Claim 19 is rejected under 35 U.S.C. § 103(a) as

being unpatentable over Beeman, Watanabe2 and Tanaka, in view of Watanabe. Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Beeman. Applicant respectfully traverses these grounds of rejection at least in view of the following comments.

Claims 2, 4, 6, 10, 11, and 16-20 depend on claims 1 and 13, respectively. It was already demonstrated that Beeman does not meet all the requirements of independent claims 1 and 13. Kusunoki, Watanabe, Watanabe2, and Tanaka fail to cure the deficient disclosure of Beeman. Together, the combined teachings of these references would not have (and could not have) led the artisan of ordinary skill to have achieved the subject matter of claims 1 and 13. Since claims 2, 4, 6, 10, 11 and 16-20 depend on claim 1 or 13, they are patentable at least by virtue of their dependency.

In addition, dependent claim 20 recites: “wherein the first and second portable terminal apparatuses are cellular telephones.” The Examiner takes an Official Notice that a cell phone can be incorporated with a digital camera (*see* page 15 of the Office Action).

It is noted, however, that digital cameras are provided without cellular telephones in Beeman. As is known, the digital camera has more computational power and memory than a cellular telephone with a build-in camera. In fact, as acknowledged by Beeman, image editing applications depend on a *type* of the device (¶ 3). For example, a cellular telephone has to be smaller and contains more applications such as connection establishing applications, internet, etc. The cellular telephone must have a main portion of the processing resources allocated to the connection and is very limited in resource power. In view of limited amount of resources, many image processing applications available for the digital camera cannot and do not run on the cellular telephones. Accordingly, the Examiner's Official Notice is technically incorrect and is challenged.

Applicant respectfully maintains that in view of the limited capabilities and complexities of mobile cellular devices, applications are especially designed for cellular telephones when analogous applications are provided on the stationary computers and digital cameras. In view of the foregoing, one of ordinary skill in the art would not have and could not have applied the synthesizing function implemented in the stationary desktop and/or the digital camera to a cellular telephone.

IV. New Claims

New claims 25-27 are patentable by virtue of their dependency and for additional features set forth therein.

V. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

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Respectfully submitted,



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